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Maria P. Tungol
1825 Eye Street, NW
Suite 400
Washington, DC 20006

In re Application of
UM et al.
Serial No.: 09/806,263
PCT No.: PCT/KR00/00817
Int. Filing Date: 27 July 2000
Priority Date: 29 July 1999
Atty. Docket No.: SHI 2440
For: COAGULANT COMPOSITION CONSISTING
OF ORGANIC COAGULANT OF BROWN ALGAE
AND INORGANIC COAGULANT

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: DECISION ON
:
: PETITION
:
: UNDER 37 CFR 1.181
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:
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This is a decision on applicants' "Petition to Withdraw The Holding of Abandonment Based on Failure to Receive Office Action" filed on 26 June 2002 requesting the Notification of Abandonment mailed 06 June 2002 be vacated, on the basis that the 03 May 2001 Notification of Missing Requirements was never received.

BACKGROUND

On 28 March 2001, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, declaration, a copy of the international application and a purported English translation thereof.

On 03 May 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) along with the Notice of Defective Translation indicating that "the text in the drawings had not been properly translated". Applicants were also advised to pay the processing fee for filing the English translation after the twenty month period.

A Notification of Abandonment (Form PCT/DO/EO/909) was mailed on 06 June 2002 indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 03 May 2001 within the specified time period.

On 26 June 2002, applicant filed the instant petition requesting that the holding of abandonment be withdrawn on the basis that the Notification of Missing Requirements was never received. Applicant also filed an English translation of the drawings (Figures 1 and 2) along with the processing fee for filing the English translation after the twenty month period.

On 02 July 2002, applicant supplemented their petition with a copy of the 06 June 2002

Notice of Abandonment.

DISCUSSION

The showing required to establish the failure to receive an Office action must consist of (1) a statement from the practitioner stating that the Office action was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received and (3) a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed, attached to and referenced in practitioner's statement.

Applicants satisfied Item (1) with the practitioner's attestation that "the undersigned attorney attests that no Notice of Missing Requirements was received by mail for the above application".

Counsel's statement attesting that "the undersigned has searched the file of the above application and the Notice of Missing Requirements has not been found" satisfies Item (2) above.

Concerning item (3) above, counsel, a solo practitioner, explained that she reviews all communications from the USPTO and docket due dates for response prior to entry in the file. Counsel states that "the attached docket sheet for the month of July 2001 shows that there is no entry for the above application". A copy of the docket sheet was attached to the petition. This satisfies Item (3) above.

CONCLUSION

For the reasons discussed above, applicant's petition to withdraw the holding of abandonment is GRANTED.

The Notice of Abandonment mailed 06 June 2002 is hereby VACATED.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 26 June 2002.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

CMK:cmk